



Department of the Treasury
Internal Revenue Service

Notice 1388

(October 2009)

Changes for the 2008 Instructions for Schedule R (Form 5500):

- Part II, line 7 instructions are modified.
- Instructions following Part IV, under the heading *Attachment for Multiemployer Plans with a Funding Improvement or Rehabilitation Plan* are modified.

Changes to the 2008 Instructions for Schedule R (Form 5500), Retirement Plan Information, filed with the Form 5500, Annual Return/Report of Employee Benefit Plan:

Plan sponsors who timely filed 2008 Schedule R with respect to a plan year beginning before October 1, 2008, by the date that is 30 days after these supplemental instructions were issued, will not have to file a revised 2008 Schedule R if the entries were completed using the instructions originally published.

Part II, Line 7. Changes to the instructions for line 7 clarify the reporting requirements for certain changes in funding method. Instructions for line 7 contained in this notice apply to all plan years beginning in 2008.

Instructions following Part IV, under the heading *Attachment for Multiemployer Plans with a Funding Improvement or Rehabilitation Plan*. Changes to the Instructions for Schedule R (Form 5500), following Part IV, under the heading “*Attachment for Multiemployer Plans with a Funding Improvement or Rehabilitation Plan*,” clarify the reporting requirements for a multiemployer plan regarding the changes made under sections 204 and 205 of the Worker, Retiree, and Employer Recovery Act of 2008, P.L. 110-458 (WRERA). Multiemployer plans with plan years beginning on or after October 1, 2008, and before January 1, 2009, should follow the instructions in this notice when determining what additional information is required to be included as attachments to the 2008 Schedule R (Form 5500).

Part II, Line 7 — The instructions for line 7 are modified by the addition of the following sentence at the end:

If the plan’s change in funding method is not made pursuant to a revenue procedure providing automatic approval or a class ruling letter (for example, it is pursuant to a regulation or Notice 2009-22), then this line should be checked “N/A.”

Instructions following Part IV, under the heading *Attachment for Multiemployer Plans with a Funding Improvement or Rehabilitation Plan* — The instructions for Schedule R, following Part IV, under the heading “*Attachment for Multiemployer Plans with a Funding Improvement or Rehabilitation Plan*,” are now as follows:

Multiemployer defined benefit plans that are in Endangered Status or Critical Status must attach a summary of their funding improvement plan or

rehabilitation plan. For this purpose, whether a plan is in Endangered Status or Critical Status is determined by taking into account any election under section 204 of WRERA. The revised instructions for line 4a of Schedule MB provide that the Plan Status Code entered on line 4a of Schedule MB must be based on the actuarial certification of the plan’s status, without regard to the election under section 204 of WRERA. In certain cases, as a result of the WRERA election, the plan status for purposes of attaching a summary of the multiemployer plan’s funding improvement plan or rehabilitation plan to the Schedule R may not be the same as shown by the Plan Status Code entered on line 4a of Schedule MB. In such a case, an explanation of why the plan’s status is different must be included either with the summary of the plan’s funding improvement plan (if the plan is in endangered status, taking into account the election) or as a separate attachment to the Schedule R (if the plan is neither in endangered nor critical status, taking into account the election). The explanation must include the date that the WRERA election was filed with the IRS.

The attachments described above must be labeled “**Schedule R, Summary of Funding Improvement Plan**,” “**Schedule R, Summary of Rehabilitation Plan**,” or “**Schedule R, Explanation of Status**,” as appropriate, and must include the plan name, the plan sponsor’s name and employer identification number (EIN), and the plan number. The summary of any funding improvement plan or rehabilitation plan must reflect the plan in effect at the end of the plan year and must include a description of the various contribution and benefit schedules that are being provided to the bargaining parties and any other actions taken in connection with the funding improvement plan or rehabilitation plan, such as use of the shortfall funding method or extension of an amortization period. The summary should also include a schedule of the expected annual progress for the funded percentage or other relevant factors under the funding improvement plan or rehabilitation plan. This summary must also identify the first year and the last year of the funding improvement period or the rehabilitation period. If an extended funding improvement period (of 13 or 18 years) or rehabilitation period (of 13 years) applies because of an election under section 205 of WRERA, the summary must include a statement to that effect and the date that the election was filed with the IRS. If the sponsor of a multiemployer plan in Critical Status has determined that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot emerge from Critical Status by the end of the rehabilitation period as described in Code section 432(e)(3)(A)(ii), the summary must include an explanation of the alternatives considered, why the plan is not reasonably expected to emerge from Critical Status by the end of the rehabilitation period, and when, if ever, it is expected to emerge from Critical Status under the rehabilitation plan.

